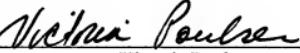


IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

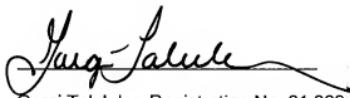
In re application of: David A. Horwitz	Confirmation No. 2359
Application No. 10/772,768	<u>CERTIFICATE OF ELECTRONIC TRANSMISSION</u>
Filing Date: February 4, 2004	I hereby certify that this correspondence, including listed enclosures is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office's Patent Electronic Business Center on:
For: METHOD TO PREVENT GRAFT REJECTION USING TGF-BETA TO INDUCE SUPPRESSOR CELLS	Dated: <i>March 31, 2009</i>
Customer No.: 67374	Signed:
Art Unit: 1644	 Victoria Poulsen
Examiner: Amy Juedes	

RESPONSE TO NOTIFICATION OF NON-COMPLIANT APPEAL BRIEF

In response to the Notification of Non-Compliant Appeal Brief dated March 18, 2009, the period for response to which extends through April 18, 2009, Appellant submits the attached "Submission of Corrected Section of Appeal Brief." Appellants respectfully submit that there is no fee due in connection with this filing. However, if any fees are due, such fees should be charged to our Deposit Account No. 50-0310 (reference no. 067797-5006US01).

Respectfully submitted,

Dated: *31 March 2009*



Gargi Talukder, Registration No. 61,368  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

David A. Horwitz

Application No.: 10/772,768

Filed: February 4, 2004

For: METHOD TO PREVENT  
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Customer No.: 67374

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Examiner: Juedes, Amy E.

Technology Center/Art Unit: 1644

**CERTIFICATE OF ELECTRONIC TRANSMISSION**

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Dated: *March 31, 2009*

Signed:

*Victoria Poulsen*

Victoria Poulsen

**SUBMISSION OF CORRECTED SECTION OF APPEAL BRIEF**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In connection with the Response to Notice of Non-Compliant Appeal Brief dated March 18, 2009, in which the Office held Appellants' brief to be defective solely due to Appellants' failure to provide a summary of the claimed subject matter as required by 37 C.F.R. § 41.37(c)(1)(v), Appellants hereby submit a corrected version of the section entitled "Summary of the claimed subject matter".

**SUMMARY OF THE CLAIMED SUBJECT MATTER**

Claims 1, 2, 3, 4 and 5 are directed to peripheral blood mononuclear cells comprising suppressor T cells.

**Independent Claim 1**

As disclosed in Applicant's specification on page 17, lines 2-4 and starting on page 14, line 13 through page 15, line 8, independent claim 1 is directed to peripheral blood mononuclear cells (PBMCs) comprising one or more suppressor T cells. The PBMCs are capable of decreasing graft rejection of a solid organ by a recipient made by the process comprising isolating peripheral blood mononuclear cells (PBMC) from a recipient and an organ donor, irradiating T cell-depleted mononuclear cells from said organ donor PBMC, and combining ex vivo said recipient PBMC with the donor irradiated T cell-depleted mononuclear cells and a regulatory composition comprising TGF- $\beta$  to induce one or more recipient suppressor T cells, wherein the suppressor T cells are CD4+CD25+ cells.

**Independent Claim 2**

As disclosed in Applicant's specification on page 17, lines 5-10 and starting on page 14, line 13 through page 15, line 8, independent claim 2 is directed to a population of PBMCs comprising suppressor T cells capable of decreasing graft rejection of a solid organ by a recipient. The population of PBMCs is made by a process comprising isolating peripheral blood mononuclear cells (PBMC) from a recipient and an organ donor, irradiating T cell-depleted mononuclear cells from said organ donor PBMC, combining ex vivo said recipient PBMC with said donor irradiated T cell-depleted mononuclear cells and a regulatory composition comprising TGF- $\beta$  to induce a PBMC population comprising one or recipient suppressor T cells. A recipient suppressor T cell population is produced by expanding the recipient suppressor T cells. The suppressor T cells are CD4+CD25+ cells.

**CONCLUSION**

Appellants submit that the corrected version of the section entitled "Summary of the claimed subject matter" satisfies the requirements of 37 C.F.R. § 41.37(c)(1)(v). If there are any fees due in connection with the filing of this paper, please charge them to Morgan, Lewis & Bockius LLP Deposit Account No. 50-0310 (reference no. 067797-5006US01).

Respectfully submitted,

Date: 31 March 2009

By:   
Gargi Talukder, Reg. No. 61,368  
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